

**REMARKS**

Claims 1, 3-5, 9-11, 17, 18, and 24-26 are currently pending in the present application, with Claims 2, 6-8, 12-15, 16, 19-23, and 27-44 being canceled, Claims 1, 3, 5, 10-14, 24, 25, and 26 being amended, and new Claims 45-55 being added. Reconsideration and reexamination of the claims are respectfully requested.

The Examiner rejected Claims 1-3, 5, 6, 9-11, 13-17, 19-22, 24-29, 31, 32, and 35-37 under 35 U.S.C. 102(b) as being anticipated by Toader (U.S. Patent no. 5,774,869). This rejection is moot with respect to the canceled claims and respectfully traversed with respect to the amended claim.

The present invention as claimed in the claims is directed to a method for providing incentives to consumers who wish to otherwise purchase or acquire a media product, which may be audio, video, and/or graphic/text data (*e.g.*, MP3 song, a movie, pay-per-view event, a DVD disc, a news article, etc.), or a service, such as wireless Internet access while at a remote location from home (*e.g.*, at the airport, a café, etc.). In accordance with a preferred embodiment, a consumer may receive an incentive associated with the purchase or acquisition of the product or service on the precondition that the consumer first receives a sponsor message, which according to the claimed invention is pre-associated with the media products or services (*e.g.*, an advertisement message for auto insurance may be associated with a news article about new cars being introduced). The incentive may take the form of a discount, free shipping (if the product is a physical product, such as a DVD disc), wherein the discount may be even a 100% discount (*i.e.*, free of charge).

In accordance with the preferred embodiments, in addition to pre-associating the sponsor messages with the media product or service, with respect to Claim 1 the sponsor message is selected for presentation to the consumer only if the number of times by which a sponsor of the message has been contracted (*i.e.*, paid for) to be displayed has not been exceeded. With respect to Claim 45, the sponsor message selection criteria further includes consumer demographic information.

The present invention offers the advantage of allowing a consumer to acquire a product by having a sponsor effectively helping to carry some or all of the cost associated with the acquisition of the product. This also benefits the sponsor of the sponsor message since, by associating the sponsor messages with the products, the sponsor messages may be selectively distributed to consumers on a more intelligent basis, as opposed to unintelligent mass distribution of advertisement. Furthermore, by limiting the selection of sponsor messages to the ones that have yet to “expire” based on the number of times previously presented, the present invention helps ensure that only the paid for sponsor messages are displayed.

Toader does not contain any disclosure of selecting, from amongst a plurality of sponsor messages, a sponsor message to be associated with a media product, wherein the media product is offered for sale over a communication network such as the Internet. Furthermore, Toader does not teach or suggest providing an incentive to the consumer in association with the consumer's attempt to acquire the for sale media product. Finally, Toader does not contain any disclosure of selecting a sponsor message based upon the number of times the sponsor message has been previously presented or based upon consumer demographics.

Rather, Toader is directed to a method of sponsors offering to consumers free access to the Internet by distributing access software on a floppy disc, such as a CD, which provides a portal for the consumer to access the Internet, upon establishing a connection of which the consumer guided through a mandatory "tour" of the sponsor's products and/or services. (*See Abstract*). After the consumer completes the guided tour, the consumer may continue to access the Internet for a limited period of time, the expiration of which provides the consumer to purchase additional access time. Toader does not disclose or suggest associating sponsor messages with a media product that is offered for sale over a communication network, and, upon a consumer electing to purchase or otherwise acquire the for sale media product, providing to the consumer an incentive related to the purchase or acquisition of the product on the precondition that the consumer first view or interact with a sponsor message. Accordingly, Applicant respectfully submits that Toader does not anticipate, nor make obvious, the amended claims of the present invention.

The Examiner rejected Claims 7 and 33 under 35 U.S.C. 103(a) as being unpatentable over "Robinson" in view of an article titled "Free# . . ." by Alexander. Applicant believes the Examiner intended to issue the rejection on the basis of Toader in view of Alexander. Nevertheless, this rejection is moot in view of the canceled claims. Applicant further adds that, even if Toader and Alexander are combined, the combined references still do not reach the inventive features discussed above.

The Examiner rejected Claims 4, 8, 12, 18, 23, 30, 34, and 38 under 35 U.S.C. 103(a) as being unpatentable over Toader in view of Official Notice. This rejection is moot with respect to the canceled claims, and respectfully traversed with respect to the amended claims.

As discussed above, Toader does not contain any disclosure or suggestion of associating sponsor messages with a media product that is offered for sale over a communication network, and, upon a consumer electing to purchase or otherwise acquire the for sale media product, providing to the consumer an incentive related to the purchase or acquisition of the product on the precondition that the consumer first view or interact with a sponsor message. Toader also does not contain any disclosure or suggestion of selecting sponsor message based on the number of times it has been previously displayed, or based on consumer demographics.

With respect to the Examiner's Official Notice, Applicant first notes that the Examiner's Official Notice is actually a total of five official notices. Applicant hereby traverses the Official Notice in that the Examiner has not established a prima facie case of obviousness to support an Official Notice. As the Examiner may appreciate, the use of official notices should be reserved for only instances where the claimed features are well-known to one skilled in the art at the time of the invention. The Examiner's Official Notice is not supported by any specific reference to the common knowledge of ones skilled in the art at the time of the invention, and is therefore hereby traversed.

More importantly, Applicant respectfully submits that the Examiner's Official Notice nevertheless does not include the above-addressed features of the claimed invention in the amended claims so as to make up for the deficiencies of Toader. Accordingly, Applicant respectfully submits that the pending claims are not unpatentable over Toader in view of the Examiner's Official Notice.

In view of the above, Applicant respectfully submit that each of the presently pending claims in this application is believed to be in condition for allowance. Accordingly, the

Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 513612000200. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

By 

David T. Yang

Registration No.: 44,415  
MORRISON & FOERSTER LLP  
555 West Fifth Street  
Los Angeles, California 90013-1024  
(213) 892-5587